



Virginia
Regulatory
Town Hall

Proposed Regulation Agency Background Document

Agency Name:	18
VAC Chapter Number:	120
Regulation Title:	Professional Boxing and Wrestling Event Regulations
Action Title:	Amending
Date:	July 15, 2002 (Revised)

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

Summary

Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The proposed changes incorporate changes to federal law effective May 1, 2000, insure consistency with state law, and incorporate clarifying changes. The proposed changes also incorporate a change in the fee for a wrestling event license, making this fee cover more of the cost associated with providing an official for the event.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

Section 54.1-831 of the Code of Virginia gives the Department the authority to promulgate regulations which implement the federal Professional Boxing Safety Act of 1996 (http://www4.law.cornell.edu/cgi-bin/htm_hl?DB=uscode15&STEMMER=en&WORDS=6301+&COLOUR=Red&STYLE=s&URL=/uscode/15/6301.html#muscat_highlighter_first_match) as amended and "protect the public against incompetent, unqualified, unscrupulous or unfit persons u in the activities regulated by Chapter 8.1, Title 54.1 of the Code of Virginia." The Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

The purpose of the proposal is to:

- Make general clarifying changes
- Incorporate changes to federal law effective 5/1/00
 - Add a requirement for a signed certification regarding health and safety risks as required by the Muhammad Ali Boxing Reform Act effective 5/26/00 and a requirement to provide a complete professional record. Both requirements will further protect public health, safety and welfare by further ensuring the safety of the boxer.
 - Add requirements for a signed certification by the promoters and officials regarding their compensation. The certifications are required by the Muhammad Ali Boxing

- Reform Act effective 5/26/00 and will protect public health, safety and welfare by ensuring that the promoter does not exploit the boxer.
- Add a provision requiring minimum contractual language as specified in the guidelines of the Association of Boxing Commissions Guidelines. This change is based on the Muhammad Ali Boxing Reform Act effective 5/26/00 and will further protect the boxer from unscrupulous promoters.
 - Insure consistency with State law
 - Add a provision giving the Department the authority to deny an application if a criminal conviction or disciplinary action would adversely affect the applicant's ability while engaged in boxing, wrestling, or other athletic activities. This authority is not clear in the current regulations and is necessary to ensure that all licensees will practice in a manner that protects public health, safety and welfare.
 - Increase one fee, the wrestling event license fee, from \$50 to \$75 to cover a larger portion of the expenses associated with provided an official for the event.
 - Make other changes which may result from the Department's periodic review of the regulations.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.

8 VAC 120-40-10 – Scope - Delete the last paragraph regarding investigations. These provisions are in statute and need not be repeated in regulation.

18 VAC 120-40-20 – Definitions – Delete all definitions that repeat statute as follows: Boxer; Boxing; Cable Television System; Contractor; Department; Director; Event; License; Manager; Matchmaker; Person; Promote; Promoter; Trainer, Second or Cutman; Wrestler; and Wrestling. Amend definition of Boxer Registry to achieve consistency with federal law (“any entity certified by the Association of Boxing Commissions for the purposes of maintaining records and identification of boxers”; 15 USC § 6301). Add a definition of firm, referenced in many sections, as follows: "Firm" means any sole proprietorship, general partnership, limited partnership, limited liability company, association or corporation or other business entity.

18 VAC 120-40-30 – License Required – Delete entire section. License required provisions do not belong in regulation, they belong in statute and are contained in § 54.1-829.

18 VAC 120-40-40 – License expiration and renewal – Delete "individual or firm" for clarity in paragraph A.

18 VAC 120-40-50 – Fees – Increase the wrestling event license fee from \$50 to \$75, to cover a larger portion of the expenses associated with provided an official for the event.

18 VAC 120-40-70 – Application requirements –

A. Substitute “Applicants” for “individuals and firms desiring to be issued a license”. Clarity is achieved by simply using the term “Applicants”.

C. Delete entire paragraph. The provision regarding return of applications is not currently followed and should not be; applications should not be returned unless absolutely necessary (i.e. to obtain a signature). Further, regulations govern the licensees and should not mandate what the Department will do. With regard to fees, the language regarding refunds should be in the Fee Section (see 18 VAC 120-40-50 above) and, it is Department policy to allow applicants/regulants to use an existing fee for up to one year.

D. Add a provision giving the Department the authority to deny an application if a criminal conviction or disciplinary action would adversely affect the applicant's ability while engaged in boxing, wrestling, or other athletic activities.

D.1. Rewrite to require disclosure of all convictions. As currently written, requires the applicant to make a determination regarding the Department's judgment.

18 VAC 120-40-80 – Entry Requirements for a Boxer – Add a provision requiring a Federal ID prior to issuance of a boxer license, a Virginia license does not permit a boxer to box, a Federal ID is also required (reference 15 USC § 6305). Add a requirement for a signed certification regarding health and safety risks as required by the Muhammad Ali Boxing Reform Act effective 5/26/00 (Section 7 of the Amendments) and a requirement to provide a complete professional record. Both requirements will further protect public health, safety and welfare. Revise subsection B for clarity.

18 VAC 120-40-90 – Entry Requirements for Wrestler – Delete language in subsection C regarding suspensions and revocation, this is a qualification provision. (Add language to 18 VAC 120-40-430 giving the Department the authority to discipline a licensee for the same reasons it may deny licensure).

18 VAC 120-40-120 - Entry Requirements for a Promoter - Add a provision requiring the promoter to certify to the following on the application:

I understand that I am not entitled to compensation in connection with a boxing match, including gate fees, until I provide the Department with a copy of any agreement in writing to which I and

any boxer participating in the match are parties; a statement made under penalty of perjury that there are no other agreements; a statement of fees, charges and expenses that will be assessed by or through me on the boxer, including any portion of the boxer's purse that I receive and training expenses; all payments, gifts or benefits I am providing to any sanctioning organization affiliated with the event; any reduction in the boxer's purse contract to a previous agreement between myself and the boxer. Further, I understand that I am not entitled to compensation, including gate fees, in connection with a boxing match until I provide the boxer I promote with the amounts of any compensation or consideration that I have contracted to receive from such match; all fees, charges and expenses that will be assessed by or through me on the boxer pertaining to the event, including any portion of the boxer's purse that I will receive and training expenses; and any reduction in a boxer's purse contract to a previous agreement between myself and the boxer.

This language is required by the Muhammad Ali Boxing Reform Act effective 5/26/00 (Section 13 of the Amendments).

18 VAC 120-40-140 - Requirements for approval to act as a boxing event inspector, inspector, referee, judge or timekeeper –

Add a provision requiring the judges and referees to certify the following on the application:

I understand that I am not entitled to receive any compensation in connection with a boxing match until I provide the department a statement of all consideration , including reimbursement for expenses that will be received from any source for participation in the match.

This language is required by the Muhammad Ali Boxing Reform Act effective 5/26/00 (Section 14 of the Amendments).

18 VAC 120-40-230 – Application for a license to conduct a boxing or wrestling event – Insurance is required by federal law, therefore a reference to federal law (15 USC § 6304) should be included in subsection A.3.

18 VAC 120-40-240 – Equipment to be provided by boxing promoters – An ambulance is required by federal law, therefore a reference to the federal law (15 USC § 6304) should be included in subsection 4.

18 VAC 120-40-250 – Promoter to provide copy of contract with boxer at weigh-in; penalty for noncompliance; contents of contract – Add a provision stating that all contracts must provide minimum provisions as set forth in the Association of Boxing Commissions Guidelines. This provision is based on amendments to federal law (Muhammad Ali Boxing Reform Act effective 5/26/00) which require the Association of Boxing Commissions to develop guidelines for minimum contractual provisions to be included in bout agreements and boxing contracts and further requires the states to follow these guidelines.

18 VAC 120-40-290 – Boxing event conduct standards – A physical examination is required by federal law, therefore a reference to federal law (15 USC § 6304) should be included in subsection D.

18 VAC 120-40-430 – Grounds for disciplinary action by the department – 1) Add a general provision stating that the Department may discipline a licensee for the same reasons it may deny licensure. Delete language regarding denial of licensure, this is a standards of conduct provision. 2) Add a provision regarding unsportsmanlike conduct This language is required by the Muhammad Ali Boxing Reform Act effective 5/26/00 (Section 7 of the Amendments).

Issues

Please provide a statement identifying the issues associated with the proposed regulatory action. The term "issues" means: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

The advantage to the public and the Commonwealth resulting from the proposed regulatory changes is that the regulations will conform to federal and state law, therefore reducing confusion among the public and regulants. There are no apparent disadvantages to the proposed changes.

Fiscal Impact

Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.

Revisions amend the Regulations to increase the wrestling event fee from \$50 to \$75 per event. This increase is proposed as a means of better reflecting actual costs associated with the event. The current fee is not sufficient to cover the direct cost of providing an official for each event. The proposed fee will not cover costs, but will increase the event fee to an amount that is closer to direct costs without placing an unreasonable burden on the applicants.

All costs incurred in support of board activities and regulation operations are paid by the Department and funded through fees paid by applicants and licensees.

All Boards within the Department must operate within the Code provisions of the Callahan Act (54.1-113), and the general provisions of 54.1-201. Each regulatory program’s revenues must be adequate to support both its direct costs and a proportional share of the indirect costs.

Fiscal Impact: This proposed fee increase is expected to increase revenue by approximately \$3,000 annually. The revenue will be used to cover the current cost of services provided directly to regulants who pay the wrestling event fee. No increase in costs will result from the proposed changes.

	FY 2001	FY 2002	FY 2003	FY 2004
Fund	NGF (0900)	NGF (0900)	NGF (0900)	NGF (0900)
Program/Subprogram	560 44	560 44	560 44	560 44

Impact of Regulatory Changes:				
One-Time Costs	\$0	\$0	\$0	\$0
Ongoing Costs	\$0	\$0	\$0	\$0
Total Fiscal Impact	\$0	\$0	\$0	\$0

Description of Costs:

There are no one-time costs associated with this regulatory change. The proposed fee increase will support ongoing direct costs of providing an official for each wrestling event. The Department contracts with these officials and pays them to attend the event and provide services. Costs of providing event officials are currently being incurred, and no increase in those costs is expected as a result of this regulatory change.

Cost to Localities: None anticipated.

Description of Individuals, Businesses, or Other Entities Impacted: Wrestling event promoters licensed by the Department.

Estimated Number of Individuals, Businesses, or Other Entities Impacted: There were 109 wrestling events in fiscal year 2001.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.

8 VAC 120-40-10 – Scope - Delete the last paragraph regarding investigations. These provisions are in statute and need not be repeated in regulation.

18 VAC 120-40-20 – Definitions – Delete all definitions that repeat statute as follows: Boxer; Boxing; Cable Television System; Contractor; Department; Director; Event; License; Manager; Matchmaker; Person; Promote; Promoter; Trainer, Second or Cutman; Wrestler; and Wrestling. Amend definition of Boxer Registry to achieve consistency with federal law (“any entity certified by the Association of Boxing Commissions for the purposes of maintaining records and identification of boxers”; 15 USC § 6301). Add a definition of firm, referenced in many sections, as follows: "Firm" means any sole proprietorship, general partnership, limited partnership, limited liability company, association or corporation or other business entity.

18 VAC 120-40-30 – License Required – Delete entire section. License required provisions do not belong in regulation, they belong in statute and are contained in § 54.1-829.

18 VAC 120-40-40 – License expiration and renewal – Delete "individual or firm" for clarity in paragraph A.

18 VAC 120-40-50 – Fees – Add a provision stating that all fees are nonrefundable. Increase the wrestling event license fee from \$50 to \$75, to cover a larger portion of the expenses associated with provided an official for the event.

18 VAC 120-40-70 – Application requirements –

A. Substitute “Applicants” for “individuals and firms desiring to be issued a license”. Clarity is achieved by simply using the term “Applicants”.

C. Delete entire paragraph. The provision regarding return of applications is not currently followed and should not be; applications should not be returned unless absolutely necessary (i.e. to obtain a signature). Further, regulations govern the licensees and should not mandate what the Department will do. With regard to fees, the language regarding refunds should be in the Fee Section (see 18 VAC 120-40-50 above) and, it is Department policy to allow applicants/regulants to use an existing fee for up to one year.

D. Add a provision giving the Department the authority to deny an application if a criminal conviction or disciplinary action would adversely affect the applicant's ability while engaged in boxing, wrestling, or other athletic activities.

D.1. Rewrite to require disclosure of all convictions. As currently written, requires the applicant to make a determination regarding the Department's judgment.

18 VAC 120-40-80 – Entry Requirements for a Boxer – Add a provision requiring a Federal ID prior to issuance of a boxer license, a Virginia license does not permit a boxer to box, a Federal

ID is also required (reference 15 USC § 6305). Add a requirement for a signed certification regarding health and safety risks as required by the Muhammad Ali Boxing Reform Act effective 5/26/00 (Section 7 of the Amendments) and a requirement to provide a complete professional record. Both requirements will further protect public health, safety and welfare. Revise subsection B for clarity.

18 VAC 120-40-90 – Entry Requirements for Wrestler – Delete language in subsection C regarding suspensions and revocation, this is a qualification provision. (Add language to 18 VAC 120-40-430 giving the Department the authority to discipline a licensee for the same reasons it may deny licensure).

18 VAC 120-40-120 - Entry Requirements for a Promoter - Add a provision requiring the promoter to certify to the following on the application:

I understand that I am not entitled to compensation in connection with a boxing match, including gate fees, until I provide the Department with a copy of any agreement in writing to which I and any boxer participating in the match are parties; a statement made under penalty of perjury that there are no other agreements; a statement of fees, charges and expenses that will be assessed by or through me on the boxer, including any portion of the boxer's purse that I receive and training expenses; all payments, gifts or benefits I am providing to any sanctioning organization affiliated with the event; any reduction in the boxer's purse contract to a previous agreement between myself and the boxer. Further, I understand that I am not entitled to compensation in connection with a boxing match until I provide the boxer I promote with the amounts of any compensation, including gate fees, or consideration that I have contracted to receive from such match; all fees, charges and expenses that will be assessed by or through me on the boxer pertaining to the event, including any portion of the boxer's purse that I will receive and training expenses; and any reduction in a boxer's purse contract to a previous agreement between myself and the boxer.

This language is required by the Muhammad Ali Boxing Reform Act effective 5/26/00 (Section 13 of the Amendments).

18 VAC 120-40-140 - Requirements for approval to act as a boxing event inspector, inspector, referee, judge or timekeeper –

Add a provision requiring the judges and referees to certify the following on the application:

I understand that I am not entitled to receive any compensation in connection with a boxing match until I provide the department a statement of all consideration , including reimbursement for expenses that will be received from any source for participation in the match.

This language is required by the Muhammad Ali Boxing Reform Act effective 5/26/00 (Section 14 of the Amendments).

18 VAC 120-40-230 – Application for a license to conduct a boxing or wrestling event – Insurance is required by federal law, therefore a reference to federal law (15 USC § 6304) should be included in subsection A.3.

18 VAC 120-40-240 – Equipment to be provided by boxing promoters – An ambulance is required by federal law, therefore a reference to the federal law (15 USC § 6304) should be included in subsection 4.

18 VAC 120-40-250 – Promoter to provide copy of contract with boxer at weigh-in; penalty for noncompliance; contents of contract – Add a provision stating that all contracts must provide minimum provisions as set forth in the Association of Boxing Commissions Guidelines. This provision is based on amendments to federal law (Muhammad Ali Boxing Reform Act effective 5/26/00) which require the Association of Boxing Commissions to develop guidelines for minimum contractual provisions to be included in bout agreements and boxing contracts and further requires the states to follow these guidelines.

18 VAC 120-40-290 – Boxing event conduct standards – A physical examination is required by federal law, therefore a reference to federal law (15 USC § 6304) should be included in subsection D.

18 VAC 120-40-430 – Grounds for disciplinary action by the department – 1) Add a general provision stating that the Department may discipline a licensee for the same reasons it may deny licensure. Delete language regarding denial of licensure, this is a standards of conduct provision. 2) Add a provision regarding unsportsmanlike conduct This language is required by the Muhammad Ali Boxing Reform Act effective 5/26/00 (Section 7 of the Amendments).

Alternatives

Please describe the specific alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

Failure to adopt these changes will result in noncompliance with the federal Professional Boxing Safety Act. Failure to adopt other changes will result in regulations not being as clear as possible and increased noncompliance.

The Department will consider comments received regarding any proposed alternatives.

Public Comment

Please summarize all public comment received during the NOIRA comment period and provide the agency response.

Comment	Response
<p>1. The Boxing and Wrestling Administrator and or the Event Inspector should have the authority to ban, suspend, fine and take whatever action deemed necessary pertaining to any participant licensed by Virginia and other states for any and all boxing and wrestling events.</p>	<p>This authority exists in current regulations. The event inspector is responsible for assuring compliance with all laws and regulations at the event (170.C and 170.D). In addition, boxing referees have authority under 190. As a follow-up to the authority exercised at the event, the Director may fine, suspend or revoke any licensee through the procedures set forth in the Administrative Process Act. It appears that further regulation is not necessary.</p>
<p>2. The Promoters should be allowed to pay the officials fees, hotel and travel expenses.</p>	<p>Setting up such a system would require monitoring of the payments (required by Muhammad Ali Boxing Reform Act, Section 14 of the Amendments) which would result in administrative expenses. Also, additional coordination of assignments would be required (promoters would be working directly with officials but it is the Department’s responsibility to insure events are covered by approved officials). It appears that the current system is the most cost effective. Adjustments will be made to fees as necessary.</p>
<p>3. The Boxing and Wrestling Administrator or the event inspector should have the authority to call state or local police for assistance.</p>	<p>This authority exists (anyone may call the police at any time). It appears that further regulation is not necessary.</p>
<p>4. Regulations require that if a boxer loses his mouthpiece during the round he does not have it put back into his mouth until the bell rings to end the round. Allow referee to temporarily stop the bout when there is a lull in the action.</p>	<p>This authority exists (190). It appears that further regulation is not necessary.</p>

Clarity of the Regulation

Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

The purpose of some of the proposed changes is to improve clarity in the regulations. The agency believes these changes will achieve clarity

Periodic Review

Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.

The Department of Professional and Occupational will enter into the regulatory review process three years following the date of the final regulations in accordance with Executive Order No. 25. The review will be conducted to determine if the regulations should be continued, amended, or terminated, including a description of specific and measurable goals the regulations are intended to achieve.

Family Impact Statement

Please provide an analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The proposed changes are expected to have no impact on families.